



## **Honduras Goes to November 28<sup>th</sup> Elections with Rules Uncertain, Corruption and Human Rights Abuses Unchecked**

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**By Lisa Haugaard**

Honduras will hold presidential, legislative, and local elections November 28<sup>th</sup> under a cloud of concerns. These start with a flawed election law, some elements of which have been poorly or tardily implemented. An array of presidential and legislative candidates are competing who have allegations against them of corruption and connections to money laundering or drug trafficking. Violence stalks the process—15 candidates running for office have been killed. Finally, the 2017 elections cast a shadow—a close, contested presidential election followed by brutal repression of protests. And yet much is at stake in these elections, as Hondurans are in urgent need of new leadership to improve basic governmental services, fight corruption, and protect their rights.

As part of the opposition united in mid-October, the potential for another close election is high—as is the potential for contests over legitimacy, social protest, and repression.

The principal presidential candidates are: Nasry Asfura, current mayor of capital city Tegucigalpa, for the incumbent Nationalist Party; the alliance of Xiomara Castro of the Libre Party with vice presidential candidate Salvador Nasralla, who had been running as candidate for the Savior of Honduras Party; and Yani Rosenthal of the Liberal Party. Nasralla was the competing presidential candidate in the contested 2017 elections and Xiomara Castro, wife of former President Mel Zelaya, overthrown in the 2009 coup, was his running mate.

### **Shaky Electoral Mechanics**

After the flawed 2017 elections, the urgency for electoral reform was clear. Yet the process stalled for years and the new electoral law was only passed in May 2021, after the primaries took place. The new law has some improvements, including by establishing a quick count transmission from voting centers, important given the lack of trust in transmission of votes. But the new law notably falls short on several counts, including by its omission of a second round of voting to avoid candidates winning with less than majority support and failure to limit participation by corrupt candidates (it permits candidates with corruption charges, but not convictions in Honduran courts, to run).

As the law was passed so close to the elections, some key elements may not be fully implemented. There are increasing concerns that the quick count will not be fully set up. Fraud can take place between the time the voting centers close and the votes are counted and transmitted, with counting likely to go late into the night when most observers leave. Another major concern is that many voters have [not](#) received their new ID cards, with at least [500,000](#) not delivered as of November 8<sup>th</sup>, raising the possibility that considerable numbers of people will not be able to vote November 28<sup>th</sup>. In addition, a separate law to resolve electoral disputes has not yet been passed.

The law also fails to address the use of social programs as electoral leverage. Honduran NGOs have [observed](#) that social spending rises in electoral years and have pointed to the ways in which social programs are portrayed as presidential largesse, with President Hernández and the first lady playing a highly visible role in events publicizing social programs before elections and with such programs placed directly under the presidency rather than ministries. Indeed, a mere 28 days before these elections, President Hernandez authorized the distribution of [cash transfers](#) to 170,000 households.

Nor have reforms stopped the flow of dirty money into politics. The anti-corruption international agency MACCIH, shuttered after the Honduran government failed to renew its mandate, had encouraged the Honduran legislature to pass a “*Ley de Política Limpia*” or “Clean Politics Law” to remove drug traffickers’ contributions and other dirty money from politics. While the law passed in October 2016, the watered-down version the Congress approved failed to stop the tide of dirty money into campaigns. The unit tasked with implementing the law, the *Unidad de Financiamiento, Transparencia y Fiscalización*, is run by party representatives rather than technical staff, lacks civil society participation, and does not have teeth to enforce its decisions. According to the nongovernmental thinktank CESPAD, [463](#) candidates, mainly mayors but also some congressional candidates, failed to comply with the unit’s requirements to present information on the source of their campaign financing.

Finally, the lack of clarity and unfinished nature of the reforms creates opportunities for confusion and conflict.

### **Candidates and Corruption**

Candidates with sketchy backgrounds abound. National Party presidential candidate Nasry Asfura faces corruption charges against him for alleged [embezzlement](#) of over \$1 million during his term as mayor of Tegucigalpa. He was listed in the Pandora Papers as being majority shareholder of an [offshore account](#) in Panama since [2007](#), when he was a local council member. Liberal Party presidential candidate Yani Rosenthal spent three years in jail in the United States for [money laundering](#). The National Party mayor of Talanga, Roosevelt Eduardo Aviles López, and his wife, Nancy Santos Rios, and son were recently [arrested](#) on charges of drug trafficking and money laundering. Nancy Santos Rios is the alternate for National Party congressional candidate Pedro Chávez, who is the brother of National Party candidate for mayor of Tegucigalpa, David Chávez. Other candidates running for Congress were named in various corruption cases pursued in the Honduran judicial system, including the INVEST-H pandemic spending scandal and the earlier sacking of the Honduran health system.

### **Political Violence**

Fifteen candidates from various parties have been killed since December 2020, many in events that have not been clarified.<sup>1</sup> According to the Violence Observatory at the Autonomous University of Honduras, National Party candidates and party operatives have [received](#) the most threats and attacks, followed by Libre and the Liberal Party. In October, Libre mayoral candidate Nery Reyes was [killed](#). The UN High Commissioner for Human Rights office in Honduras has [recorded](#) 45 serious incidents of political violence in Honduras since the October 2020 call for primary elections, “23 of which were murders of candidates, their families, activists and voters, which represents an increase in violent deaths with respect to the pre-electoral stage of 2017.”

### **The Specter of the 2017 Electoral Aftermath**

In the November 2017 elections, presidential candidate Salvador Nasralla was ahead in early results. Juan Orlando Hernández suddenly surged, leading to widespread doubts about the validity of the results. The OAS, after [examining](#) the results, [called](#) for new elections, while the United States [recognized](#) Hernández as the winner.

Protests broke out in many areas of Honduras. Security forces, especially the Military Police of Public Order, shot at protesters, including with live bullets. The UN High Commissioner for Human Rights office in Honduras [documented](#) in the context of the post-electoral protests at least 23 people killed, including one policeman, and some 60 people wounded, half of them with lethal munitions. Most of those killed and wounded were protesters and bystanders.

There has been little [justice](#) or accountability for the security force abuses that took place against protesters and bystanders. Among the few cases that has advanced, regarding the killing of David Octavio Quiroz in context of the protests, resulted in favor of the Military Police defendant. According to the Honduran thinktank CESPAD, this verdict, issued September 30, “is a [confirmation](#) of the structural impunity that prevails in the country and a green light so that this November the events of November 2017 can repeat themselves.” Yet the justice system has been tough on protesters. Two activists accused of violence during the protests spent 19 months in maximum security prison before finally being released when a judge ruled them innocent on all charges.

### **What’s at Stake: Corruption Rules, Fueling Migration**

President Juan Orlando Hernández refused to renew the mandate of the international anti-corruption mechanism MACCIH, forcing it to close up shop. Hernández signed into law a series of [provisions](#) that have made it harder to investigate and prosecute corruption and money laundering and harder for civil society organizations and journalists to investigate, expose, and protest against corruption and human rights abuses. The government is “progressively dismantling more and more of the tools to combat corruption,” [said](#) former judge José Dimas Agüero. For example, a penal code “reform” in 2019 [reduces penalties](#) for crimes such as illicit enrichment, public administration fraud, and misuse of public funds from 6-12 years to 4-6 or 5-7 years and allows some convicted to serve non-jail sentences. In October 2021, just after the Pandora Papers scandal revealed offshore accounts held by ex-president [Lobo](#) and current presidential candidate Asfura, the Congress passed changes to the Special Law on Money Laundering making it harder for the Honduran justice system to investigate money laundering by denying the justice system access to bank accounts except under more limited circumstances. Anti-corruption prosecutor Luis Javier Santos [denounced](#) the changes and warned that the next attack on the fight against corruption would be to weaken asset forfeiture laws so that the corrupt could keep their money. The law also [labeled NGOs](#) involved in exposing and denouncing corruption as “Politically Exposed Persons,” a term used to label high-level public officials as at risk for committing corruption. A separate penal code reform was passed at the same time to increase penalties for crimes such as usurpation which in Honduras are often applied to people protesting or occupying land they claim was stolen from their communities.

Human rights defenders and journalists face severe threats and attacks in Honduras. Honduras is the second country in the world for per capita killings of environmental and land defenders in 2020, according to [Global Witness](#). Ninety-two journalists have been killed since 2001, most since 2009, and the vast majority of these crimes remain in impunity, according to press freedom group [C-Libre](#). The

Honduran justice system often criminalizes human rights activists, such as against those involved in protesting projects that are damaging their communities, and holds them for months, sometimes years, in pretrial detention, such as the Guapinol activists who have been in pretrial detention for two years despite calls to respect due process and end their pretrial detention by the United Nations and other international bodies. On October 29, 2021, they were denied bail again, in a decision [lamented](#) by the office in Honduras of the United Nations High Commissioner for Human Rights.

As human rights defenders' rights are curtailed and corruption is made easier, the Honduran government and Congress continue to promote the establishment of the ZEDES, special zones granting greater rights to investors and limiting labor rights, environmental laws, and other protections to citizens and communities. Some [30](#) municipalities in Honduras have organized against these zones and declared themselves, "territories free of ZEDES."

### **The Biden Administration's Response**

The Biden Administration has taken some firm stances regarding corruption and violations of judicial independence and the rule of law in El Salvador and Guatemala, issuing strong statements and suspending or reorienting assistance in response to concerning actions by those governments. In Honduras, it has not reacted, at least publicly, to similar disturbing trends. And the Biden Administration also has done little so far to speak out publicly in support of the human rights defenders and civil society activists who are at risk in Honduras and central to the fight against corruption and impunity. A new \$300 million USAID program to invest in local nongovernmental organizations in Honduras, El Salvador, and Guatemala could be a welcome development, if it is consulted with civil society, implemented well, and includes organizations on the frontlines of defending rights. In general, however, Biden Administration policy towards Honduras seems to be in waiting mode, while the situation of human rights and corruption continues to deteriorate.

### **Recommendations for U.S. Policy**

#### **Regarding the November 2021 elections:**

- The U.S. government should urge compliance with electoral law and denounce abuses.
- The U.S. government should be careful not to pick sides or appear to pick sides. If the electoral results are disputed, the U.S. government should proceed cautiously, confer with international and national electoral observers, and follow a multilateral rather than unilateral approach regarding the fairness and legitimacy of the elections.<sup>2</sup>
- Prior to the election, the State Department should inform the Honduran government, Military Police of Public Order, armed forces, and police that the U.S. government does not want to see a repeat of the brutal government repression of protest that took place after the 2017 elections. The right to protest must be respected, the Military Police of Public Order and the armed forces should not be deployed to handle protest, and the police and other government agents should be ordered to respect the right to protest, not to deploy excessive use of force, and to respect the rights of human rights defenders, journalists, civil society activists, and all Honduran citizens.

- If repression of protests or abuses against journalists, human rights defenders, and other citizens takes place, the State Department and U.S. Embassy must publicly denounce it immediately and unequivocally.

**Regarding supporting human rights and the rule of law and combatting corruption:**

- The State Department should task the new ambassador who has just been nominated with focusing on the fight against corruption and impunity. She should be tasked with reaching out to a wide range of Honduran civil society organizations and activists, more broadly than has been customary, which should start as soon as she is posted. One of her goals should be to show visible support for human rights defenders, land and environmental activists, anti-corruption activists, and upstanding journalists, as well as for principled prosecutors and judges, who are central to the fight for human rights and the rule of law in Honduras and who are at risk.
- The State Department should issue strong statements and be willing to take actions such as suspending or redirecting funding and other measures in response to negative actions by the Honduran government and legislature. Such negative actions should not only include legislation and executive actions to make it harder to prosecute corruption but also human rights abuses by security forces and other state agents and actions to further criminalize human rights defenders.
- The U.S. Embassy and State Department should speak out publicly in favor of anti-corruption activists and human rights defenders, including land and environmental defenders. This must include urging an end to the widespread criminalization of such defenders and extended pre-trial detention and high penalties deployed in these cases.
- Diplomatic support as well as funding for environmental and land rights defenders should be part of the Biden Administration's climate strategy.
- The State Department should use the [new](#) and preexisting visa sanction authorities to sanction individuals undermining the rule of law and obstructing efforts against corruption and impunity. This should include members of the executive branch who are corrupt or undermine the rule of law and should also include members of the Honduran legislature who championed or champion legislative provisions to restrict investigations, prosecutions, and other actions against corruption and impunity or to penalize civil society activists and journalists who are defending human rights or exposing or denouncing corruption.
- USAID in Honduras should establish a regular consultation process with a broad range of civil society actors in Honduras to discuss and receive input on its programming in the country. This should include organizations that do not receive USAID funding, and must include indigenous and Garifuna organizations, land and environmental activists, human rights defenders, journalists, anti-corruption activists, humanitarian agencies, LGBTQ and women's organizations, migrant shelters, and other organizations and individuals on the frontlines of defending rights and providing humanitarian services. USAID assistance to civil society organizations should also include funding for groups on the frontlines of defending rights.

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<sup>1</sup> 14 candidates running in the current elections were killed [according](#) to the Violence Observatory at the Autonomous University of Honduras as of 3 September 2021, and mayoral candidate Nery Reyes was killed October 9, 2021.

<sup>2</sup> International observers will include the Organization of American States, the European Union, and the Council of Electoral Experts of Latin America (CEELA).